IN THE HIGH COURT OF BOMBAY AT GOA
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WRIT PETITION NO. 433 Of 2003

1. Shri Sharadchandra Raya
   Sinai Khandeparkar, aged
   61, married and his wife,

2. Smt. Maya Sharadchandra
   Sinai Khandeparkar,
   aged 55, both r/o A/6,
   II Floor, Deepra Vihar,
   Near Star House, Tonca,
   Caranzalem, Goa,

3. Dr. Satischandra Raya
   Sinai Khandeparkar, aged
   46, married and his wife,

4. Smt. Manju Satischandra
   Sinai Khandeparkar, aged
   42, both r/o F-4,
   Leopoldina Mansion, Fr.
   Jose Vaz Road,
   Vasco da Gama, Goa. ... Petitioners.

Versus

1. Shri Jayant Siurama Sinai
   Khandeparkar, of major age,
   married and his wife,

2. Smt. Seema Jayant Sinai
   Khandeparkar, of major age,

3. Smt. Susheelabai Siurama
   Sinai Khandeparkar, of major
   age, all r/o II Floor,
   Flat No.10, Behind Viera
   Apartments, Behind Ponda
   Municipal Council, Ponda,
   Goa,

4. M/s. Key Pee Rolling Mill
   Pvt. Ltd., with office at
   Goglavoril Mol, Usgao,
   Goa,

5. The Economic Development
   Corporation of Goa, Daman
   and Diu, EDC House, Panaji,
   Goa, and

6. Ms. Kundil ISPAT Limited,
   a Company duly incorporated

and registered under the
Companies Act, 1956, with
its registered office at
Goglavoril Mol, Opp.
Hindustan Foods, Usgo, Goa. ... Respondents.

Shri Sudesh Usgaokar, advocate for the petitioners.

Shri R. G. Ramani, advocate for respondent nos. l, 2 and 3.

Shri M. S. Sonak, advocate for respondent no.5.

Shri N. K. Sawaikar, advocate for respondent no.6.

CORAM : A. M. KHANWILKAR, J.

DATE :12th December, 2003.

ORAL JUDGMENT

Heard both sides. Rule. Rule made returnable forthwith by consent.

2. The short question involved in this petition is whether it was open to the trial Court to pass order which is in not in conformity with the direction given by this Court. It is not necessary to burden this judgment with all the events that unfolded in filing the writ Petition no. 21 of 2003. The respondents challenged the order passed by the trial Court which was in favour of the petitioners herein in the said Writ Petition. This Court while disposing of the Writ Petition in its decision dated 23rd January, 2003, issued the following directions:-

> "The learned Trial Court shall exhibit those two documents subject to the objections

> regarding their admissibility to decide at the time of final disposal of the suit. The learned Trial Court should not be influenced by any of the objections made regarding their admissibility impugned in the present petition."

On this Order, the matter went back to the trial Court and the trial Court instead of exhibiting those documents as directed by this Court, chose to only mark those documents as 'X', subject to production of original hand-written proof of the documents so produced. This is the limited grievance made in the present petition. Although learned counsel for the respondents made a vehement attempt to justify this Order, to my mind, the approach of the trial Court cannot be countenanced. Once the superior Court issues direction and even if that direction is inappropriate, the trial Court is nevertheless bound to comply with those directions. As in the present case this Court directed the trial Court to exhibit the subject documents, but instead of exhibiting those documents the trial Court has only taken those documents on record and marked them as 'X' subject to production of original hand-written proof. That was not the scope of the order passed by this Court.

3. In the circumstances, the Writ Petition is allowed, the Order as passed by the trial Court is set aside

and the trial Court is directed to pass necessary orders in compliance of the earlier order passed by this Court on 23rd January, 2003. The apprehension of the respondents that objections regarding incorrect exhibition of the subject documents will get finally resolved is not right, inasmuch as this Court by Order dated 17th March, 2003, has clarified that position which in my view is already recorded in the earlier Order dated 23rd January, 2003. The question regarding issue of admissibility of those documents will be decided at the time of final disposal of the suit. No order as to costs.

A. M. KHANWILKAR, J.

mc.